

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

**SHERILA TUCKER**

**PLAINTIFF**

**VS.**

**CIVIL ACTION NO. 1:21cv12-DMB-RP**

**THE HERSHEY COMPANY**

**DEFENDANT**

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. §§ 1441 and 1446, The Hershey Company (“Hershey”) files this Notice of Removal of the civil action styled *Sherila Tucker vs. The Hershey Company*, Civil Action No. CV20-55, from the Circuit Court of Lee County, Mississippi, to the United States District Court for the Northern District of Mississippi, Aberdeen Division. In support of this Notice, Hershey states the following:

1. Plaintiff filed this action on June 5, 2020. *See* Complaint, attached as Exhibit 1.
2. Plaintiff served Hershey with a copy of the Summons (but not the Complaint) on January 6, 2021. This Notice of Removal is therefore timely. *Hernandes Barron v. Overnight Parts Alliance, LLC*, NO. 3:20-CV-540-TSL-RPM, 2020 WL 5983896 (S.D. Miss. Oct. 8, 2020).<sup>1</sup>
3. Venue is proper in the United States District Court for the Northern District of Mississippi, Aberdeen Division because that is the district in which the state court action was filed. *See* 28 U.S.C. §§ 1446(a), 104(a)(1).

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<sup>1</sup> Hershey will be filing a Motion to Dismiss promptly, and it reserves the right to raise improper service in that Motion.

4. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Hershey are attached as composite Exhibit 2. Hershey will file a copy of the entire state court record within fourteen days of the filing of this Notice. *See* L.U.Civ.R. 5(b).

5. This Court has diversity jurisdiction over this action under 28 U.S.C. § 1332 because (1) the amount in controversy exceeds \$75,000, exclusive of costs and interest, and (2) there is diversity of citizenship between Plaintiff and Hershey.

6. The amount in controversy requirement is met because the Plaintiff seeks \$1.7 million in damages. Exhibit 1, Page 3.

7. Diversity of citizenship exists because Plaintiff is a citizen of Mississippi and Hershey is incorporated in Delaware and has its principal place of business in Pennsylvania.

8. For these reasons, this Court has diversity jurisdiction under 28 U.S.C. § 1332, and removal is proper under §§ 1441 and 1446.

Dated: January 28, 2021

Respectfully submitted,

THE HERSHEY COMPANY

By Its Attorneys,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC

By: *s/ D. Sterling Kidd*

D. STERLING KIDD

D. Sterling Kidd (MS Bar No.103670)  
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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using and mailed a copy via certified mail to the Plaintiff at 1349 O M Cox Rd, Potts Camp, MS 38659-8242.

Dated: January 28, 2021

*s/ D. Sterling Kidd*

D. STERLING KIDD